RLECs, AT&T Push ‘Missoula Plan’; Regulators, Other Carriers Are Critical

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An intercarrier compensation reform plan put forward by an industry working group is receiving praise in comments filed with the FCC by AT&T, Inc., and those representing mostly small and rural incumbent local exchange providers, but is facing a host of criticisms from state regulators, wireless providers, competitive carriers, and large incumbents such as Verizon Communications, Inc., and Qwest Communications International, Inc., for proposing a system that critics say would be as slanted and confusing as the existing setup.

The Missoula Plan, crafted but not endorsed by a task force put together by the National Association of Regulatory Utility Commissioners when it was released in July, is supported by some 350 different carriers. It calls for a four-year phase-in of the proposal, which backers say will unify intercarrier charges for most lines, and move all intercarrier rates charges for all traffic closer together. However, opponents argued in comments filed with the Commission late last month that the plan does not serve the interests of consumers because it does not adequately address, and in many cases would exacerbate, problems with the current ICC and universal service systems.

AT&T, filing comments on behalf of a group of supporters of the plan, said the proposal would help cure a currently broken ICC system that allows carriers to manipulate the rules and dodge their fair share of payments in order to gain competitive advantage.

"The Missoula Plan is a comprehensive solution to intercarrier compensation reform," supporters said. "It addresses intercarrier payments, network interconnection, and the provision of universal service in a coordinated fashion. The Missoula Plan does not advance the individual interests or policy positions of any particular company or class of carriers."

The proposal also earned the endorsement of the U.S. Telecom Association, which called it "a balanced step forward" that would minimize regulatory arbitrage; integrate universal service reform with intercarrier compensation; give network owners a more consistent and predictable way to be compensated for use of their networks; facilitate direct and indirect interconnection; and would not disturb rate-of-return regulation.

Praise for the plan, however, was most lavish from rural ILECs and those that represent them. The National Telecommunications Cooperative Association, for example, said it is a "remarkable proposition" that "proposes default rules that address the most egregious problems in the current rules while avoiding the dangers presented by a radical departure from the current access charge and reciprocal compensation concepts which could create instability and uncertainty."

The Organization for the Promotion and Advancement of Small Telecommunications Companies told the Commission it should adopt the Missoula Plan because it "effectively and comprehensively reforms the existing intercarrier compensation rules by providing carriers with a more rational and stable means of recovering network costs. At the same time, the plan appropriately recognizes the differences between carriers of different size and regulatory classification."

The South Dakota Telecommunications Association said it supports the negotiated framework put together by the NARUC task force because it "has several attributes that make it worthy of consideration by the Commission as a means to resolve many of the problems and disputes relative to intercarrier compensation and represents significant progress toward a unified compensation regime for like services."

Focusing on phantom traffic concerns, the Small Company Committee of the Louisiana Telecommunications Association lauded the plan's proposal in this area, saying it "retains distinctions between rural and non-rural carriers, and includes provisions that are intended to ensure financial support for rural areas." It also "acknowledges important principles such as the difficulty to pursuing regulatory reform without state conformity."

In its filing, a coalition of rural ILECs stated that while the proposal is not perfect, it "is comprehensive and is the best compromise that could be negotiated to deal with the very real and critical intercarrier compensation problems that exist today while maintaining broad industry support."

The Oklahoma Rural Telecommunication Coalition agreed, saying that while the plan doesn't address all the issues that the group of carriers would prefer, "it does reflect an extraordinary effort by a very diverse group of industry participants and presents viable solutions to address the complex issues confronting the telecommunications industry today."

For others, though, the Missoula Plan offered a mixed bag of ideas. The Rural Iowa Independent Telephone Association backed its findings that small rural carriers must be treated differently for compensation purposes, the equalization of differing jurisdictional rates, and its resolution of transport issues. However, it called the plan's phantom traffic provisions "inadequate," and raised concerns regarding the restructuring mechanism.

And Cincinnati Bell, Inc., took a hard line against the proposal. While it said "any new plan should be simple to administer, competitively and technologically neutral, and minimize arbitrage opportunities," this plan "fails on three out of these four requirements, with technological neutrality perhaps being the only thing it accomplishes."

That stance was much more in line with the thinking of other landline and wireless providers that filed comments with the FCC. Verizon, for instance, complained that the Missoula Plan is too focused on past telecom technology rather than the future Internet protocol world, saying it "falls far short of conformity with the Commission's stated goals for intercarrier compensation reform. It certainly fails to meet the key test of any transitional regime: doing no harm to investment in next-generation technologies."

Qwest, in its filing, cited the plan's failure to institute a bill-and-keep mechanism to help solve intercarrier compensation problems, and said its proposals would create "new and additional arbitrage and subsidy opportunities and requirements." It added, "the flaws in the Missoula Plan are very significant, and the plan cannot reasonably be adopted as presented."

CTIA concurred with the Bells, stating the proposal "does not address, and in many cases would exacerbate, the deficiencies exhibited by the current intercarrier compensation and universal service systems that the [FCC] is attempting to reform in this docket" and "would retard the accelerating development of intermodal competition and convergence by protecting [ILECs] from these trends."

Alltel Communications, Inc., and SunCom Wireless, Inc., filing jointly, said the plan "disappoints the hopes of those who sought a broad-based consensus on intercarrier compensation reform, and thwarts the goals of economic efficiency, universal service, and competitive neutrality. Instead of promoting the interest of consumers, the plan represents a crass political deal, bartered between [ILECs] for the benefit of ILECs."

Sprint Nextel Corp. took a more balanced view of the proposal, saying while it ignores reform of special access services and allows ILECs to charge transit and transport rates which exceed economic costs, it "establishes a structure under which [ILECs] can derive a larger percentage of their revenues directly from their end user subscribers, thereby reducing their reliance on excessive access and reciprocal compensation charges assessed on other carriers/competitors."

But competitive local exchange carriers (CLECs) also piled onto the Missoula Plan. CompTel said that while the FCC, in its notice of proposed rulemaking, sought "a simplified, unified, and competitively neutral approach to intercarrier compensation," the proposal offered "fails miserably in all respects." Instead, it says, it favors ILECs over CLECs.

Eschelon Telecom, Inc., in its comments, also argued that the proposal does not deliver what federal regulators wanted in the way of reform. "Given the unduly complex nature of the Missoula Plan, with its pages and pages of new rules and its maintenance of numerous and varied rate structures for multiple classes of carriers, and the unanswered questions it poses, the plan does not provide the harmony and certainty that the Commission seeks as a resolution to the intercarrier compensation problem."

And comments filed by state regulators and consumer advocates were not much kinder, with a few exceptions. The Florida Public Service Commission, for example, gave the provisions offered by the NARUC task force a thumbs down "because it shifts cost recovery to consumers through increases in the [subscriber line charge] and the Universal Service Fund without assurances of offsetting benefits. Further, the plan is overly broad, addressing several issues beyond the scope of intercarrier compensation."

The Wyoming Public Service Commission criticized the Missoula Plan for not promoting economic efficiencies; not being competitively or technologically neutral; failing to preserve and advance universal service; and not addressing network interconnection issues, among other things. "There are many good reasons several of the major industry participants, who spent countless hours working towards a comprehensive plan to reform intercarrier compensation, left the task force ... and do not support the Missoula Plan," it said.

The Missouri Public Service Commission regulators, echoing some of the concerns of those in other states, said the proposal did not meet the goals set by NARUC. They called the plan "extremely complex" and said it "moves intercarrier compensation rates to a 'unified' level in a manner that can only be described as 'too much, too fast.'"

The New Jersey Board of Public Utilities, however, was more blunt. "This plan is bad for consumers, and particularly low and middle-income consumers, who are the least able to afford the increased charges which are nothing more than additional subsidies," it said. "If the Missoula Plan is enacted, revenue from low and middle-income urban consumers would subsidize higher income consumers and their carriers in rural states."

The National Association of State Utility Consumer Advocates, for its part, agreed. "Consumers are far better off under the status quo than they will even be under the Missoula Plan," it said. "If the Commission wishes to address ICC reform, NASUCA recommends a more gradual approach ... [that] will allow movement towards the goal of unitary ICC rates without imposing unacceptable burdens on end user rates and the USF."

Not all regulatory bodies, however, took such a hard line. The California Public Utilities Commission said it was generally supportive of the proposal's framework, calling it "a good starting point for reform." But it said certain portions "require further examination, analysis, clarification, and revision due to the complex nature of the system."

And while the Wisconsin Public Service Commission called it "a large step forward in terms of building consensus within a polarized industry," it said some work has to be done to make sure midsized carriers get a fairer shake, and that CLECs will be able to access restructure mechanism funds.

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